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6 **IN THE SUPREME COURT**

7 **STATE OF ARIZONA**

8 PETITION TO REPEAL OR AMEND) Supreme Court No. R-_____
9 RULE 45 OF THE RULES OF THE)
10 SUPREME COURT) PETITION TO REPEAL OR
11) AMEND RULE 45

12 Pursuant to Arizona Supreme Court Rule 28, the undersigned respectfully
13 submits this petition to the Court requesting the repeal, or in the alternative, the
14 amendment of Rule 45 of the Rules of the Supreme Court, as follows.

15 **I. Background**

16 Rule 45 of the Rules of the Supreme Court requires, with some exceptions,
17 fifteen (15) hours of continuing legal education (“CLE”) by each active attorney
18 licensed to practice in Arizona. The CLE requirement is imposed in addition to the
19 three years of full-time education required to qualify to sit for the bar examination,
20 and in addition to passing the examination. Rule 45 gives the Board of Governors of
21 the State Bar of Arizona (the “Board”) the power to adopt regulations governing CLE
22 compliance, and the Board has published Regulations 101 through 109 for this
23 purpose. Under Regulation 104, for example, CLE credit hours can be earned through
24 attending classes, teaching classes, publishing legal works, and self-study. Most
25 attorneys complete their CLE credits by attending in-person, “interactive” courses.
26

1 Indeed, only five (5) of the fifteen (15) required CLE credit hours may be satisfied
2 through self-study in Arizona, meaning there is no live interaction with an instructor.

3 Although these requirements may appear modest in length of instruction, they
4 are anything but modest in expense. Interactive CLE courses typically cost at least
5 \$40 per CLE credit hour. In substance, this adds approximately \$600 to the annual
6 \$315 or \$460 bar membership dues already paid by each practicing attorney in
7 Arizona (the lesser amount applying to attorneys admitted for fewer than two years).
8 For a new attorney, CLE requirements mean that annual bar dues can be almost three
9 times what they appear to be, to say nothing of work hours lost while attending CLE.
10 This additional expense is particularly onerous for many young attorneys who now
11 graduate law school buried in debt, only to enter a very uncertain legal market in
12 which their chances of legal employment are significantly worse than their chances of
13 admission to, and graduation from, law school. Furthermore, recent law school
14 graduates are those least in need of CLE.

15 **II. Argument**

16 The only parties who significantly benefit from CLE are rent-seekers who
17 provide CLE courses for excessive fees. Regulation 104 exacerbates this problem
18 with its implicit presumption that private learning is not as valuable as “interactive”
19 learning. This is a poor assumption, however, especially in light of the practical
20 reality of CLE courses. “Interactive” CLE courses typically consist of an instructor
21 giving one to three hours of PowerPoint presentations, followed by a ten-to-twenty
22 minute question-and-answer period, during which perhaps five out of thirty attendees
23 have any interaction with the instructor at all. In other words, “interactive” courses
24 are only *potentially* interactive and in reality are interactive only for a small portion of
25 attendees. A lawyer engaging in “self-study” has the same potential for interactivity
26 as a lawyer attending an “interactive” course, because the former can follow up his or

1 her questions with Internet research or questions to colleagues at his or her leisure.
2 Oftentimes an instructor at an “interactive course” cannot satisfactorily answer
3 questions posed to him or her, in any case.

4 More importantly, attorneys do not significantly benefit from CLE. This is not
5 to say that attorneys do not benefit from continued education as such, but attorneys
6 receive continued education simply as a part of their jobs. A typical attorney works
7 50 to 60 hours per week or more and learns more about the law and its developments
8 in any typical week than he or she will learn from watching fifteen hours worth of
9 PowerPoint presentations per year. Attorneys also spend many hours every year
10 reading professional journals, books, and Supreme Court opinions as they are
11 published. Moreover, the massively increased use of the Internet since Arizona
12 adopted the CLE requirements seriously undermines any perceived need for CLE
13 based on educational idleness. General and specialized legal blogs continuously
14 provide attorneys with instantaneous local and national updates on the state of the
15 law, opinions about the law from distinguished practitioners and professors, links to
16 relevant rulings and documents, practice tools, and even discussion forums. CLE
17 attendance adds at most a miniscule fraction to the amount of legal education an
18 attorney absorbs in a year. In reality, there is very little value added by the formal
19 CLE requirements beyond what an attorney is naturally exposed to. In summary,
20 CLE was a solution to a problem that has since disappeared to any extent it may have
21 existed.

22 **III. Conclusion**

23 The undersigned respectfully requests that the Court repeal Rule 45. In the
24 alternative, the undersigned respectfully requests that Rule 45(b) be amended to add
25 the bold text in the quotation below:
26

1 4. New Admittees. A lawyer newly admitted between January 1
2 and June 30 need not comply with the requirements of section (a) for
3 that educational year. A lawyer newly admitted between July 1 and
4 December 31 shall comply with the requirements of section (a) for that
5 educational year by completing two-thirds of the requirement.
6 **Furthermore, a lawyer shall be exempt from the requirements of**
7 **section (a) for ten years from the earliest date of admission to the**
8 **bar of any state, or until the lawyer has satisfied all debt incurred**
9 **for the purpose of attending law school, if any, whichever occurs**
10 **sooner.**

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12 DATED this 8th day of January, 2010.

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Electronic copy filed with the
Clerk of the Supreme Court of Arizona
this ____ day of _____, 2010.

by: _____

